

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

JIMMY LEE

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2:20-cv-30-KS-MTP

RUDOLPH FOODS COMPANY, INC.;
DOUG McATEE, Individually, and
MICHELLE GARDNER, Individually

DEFENDANTS

NOTICE OF REMOVAL

TO: James Brister
Circuit Court, Lawrence County
P.O. Box 1249
Monticello, MS 39654

Louis Watson
Nick Norris
Watson & Norris, PLLC
1880 Lakeland Drive, Suite G
Jackson, MS 39216

In accordance with 28 U.S.C. § 1332, 1441, and 1446, you are hereby notified that the named Defendants, Rudolph Foods Company, Inc., Doug McAtee and Michelle Gardner, has removed this civil action from the Circuit Court of Lawrence County, Mississippi, to the United States District Court for the Southern District of Mississippi, Eastern Division, and in support hereof would show unto the Court the following:

1. This action was filed in the Circuit Court of Lawrence County, Mississippi, Second Judicial District, as Cause No. 19-227-CM. Plaintiff's Complaint names Rudolph Foods Company, Inc., Doug McAtee, and Michelle Gardner, as the Defendants. (See Exh. A, Complaint).

2. There is complete diversity of citizenship between the Plaintiff and named Defendants, Rudolph Foods Company, Inc., Doug McAtee, and Michelle Gardner. Plaintiff is domiciled in Mississippi at his residence in Jefferson Davis County, Mississippi, according to his

Complaint. (Complaint, para. 1). Rudolph Foods, Inc. is an Ohio domiciliary corporation with its principal place of business and registration in Ohio. (Exh. B, Affidavit of Rudolph Food Company, Inc.).¹ Doug McAtee is an Ohio domiciliary whose permanent residence is in Ohio. (Exh. C, Affidavit of Doug McAtee). Michelle Gardner is an Ohio domiciliary whose permanent residence is in Ohio. (Exh. D, Affidavit of Michelle Gardner).

Accordingly, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332. Further, Plaintiff's Americans with Disabilities Act, Family Medical Leave Act, and Age Discrimination in Employment Act invokes federal question jurisdiction under 28 U.S.C. § 1331. Supplemental jurisdiction is further present over the state law tortious interference claims under 28 U.S.C. §1367,

3. The United States District Court for the Southern District of Mississippi, Eastern Division, has original subject matter jurisdiction over this civil action because there is complete diversity among the parties, as noted, pursuant to 28 U.S.C. § 1332. The amount in controversy in this civil action, exclusive of interest and costs, exceeds the sum of \$75,000.00. (Plaintiff's counsel's E-mail to defense counsel, admitting he is seeking over \$75,000.00, attached as Exh. "E"). No party properly joined as a Defendant is domiciled in the State of Mississippi or has its principal place of business in the State of Mississippi. Therefore, this action may be removed to this Court pursuant to 28 U.S.C. § 1441.

4. The amount in controversy in this civil action, exclusive of interest and costs, is in excess of the minimum jurisdictional amount of this Court. Plaintiff seeks compensatory damages in excess of \$75,000.00, as noted above. Therefore, this Court's minimal jurisdictional

¹ The references to Doug McKennie in the style on the Affidavits are actually referring to Doug McAtee

threshold is satisfied. 28 U.S.C. § 1332.

5. This Notice of Removal is timely filed because it has been filed within 30 days of receipt of the Complaint served of Michelle Gardner on January 28, 2020. (Exh. E, Affidavit of Michelle Gardner, para. 3). Further, it is filed within one year of the filing of the original Complaint. 28 U.S.C. § 1446(b).

6. This action is not one rendered non-removable by 28 U.S.C. § 1445.

7. Copies of all process, pleadings, and orders served on the Defendant in the State Court action will be filed electronically upon receipt of a federal cause number.

8. A copy of the Notice of Removal is being served on the Plaintiff, by and through his attorney of record, and the Clerk of the Circuit Court of Lawrence County, Mississippi.

WHEREFORE, Rudolph Foods Company, Inc., Doug McAtee and Michelle Gardner, serves this Notice and hereby remove this case pursuant to 28 U.S.C. § 1331, 1332, 1367, 1441, and 1446, and Plaintiff herein is notified to attempt to proceed no further in this case in the Circuit Court of Lawrence County, Mississippi, unless by Order of the United States District Court for the Southern District of Mississippi, Eastern Division.

RESPECTFULLY SUBMITTED, this the 13th day of February, 2020.

RUDOLPH FOODS, INC., DOUG McATEE,
and MICHELLE GARDNER,
Defendants

BY: CARR ALLISON, Their Counsel

BY: /s Thomas L. Carpenter
THOMAS L. CARPENTER, MB#9808

CERTIFICATE OF SERVICE

I, Thomas L. Carpenter, attorney of record for Defendants do hereby certify that on this day I have mailed, first class United States mail, postage-prepaid, a copy of this Notice of Removal to the following persons:

James Brister
Circuit Court, Lawrence County
P.O. Box 1249
Monticello, MS 39654

Louis Watson
Nick Norris
Watson & Norris, PLLC
1880 Lakeland Drive, Suite G
Jackson, MS 39216

This the 13th day of February, 2020.

/s Thomas L. Carpenter
THOMAS L. CARPENTER, MB#9808

CARR ALLISON

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